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AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR SALES OR RENTALS OF DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES FOR THREE YEARS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--DURABLE MEDICAL EQUIPMENT--MEDICAL SUPPLIES.--

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider may be deducted from gross receipts and governmental gross receipts.

B. Receipts received on or after January 1, 2014 from the sale or rental of prescribed durable medical equipment and prescribed medical supplies may be deducted from gross receipts and governmental gross receipts.

C. The purpose of the deductions provided in this section is to help protect jobs and retain businesses in New Mexico that sell or rent prescribed durable medical equipment, infusion therapy services and prescribed medical supplies.

1 D. Deductions pursuant to this section shall be
2 stated separately by the taxpayer on forms provided by the
3 department.

4 E. The department shall annually report to the
5 interim legislative revenue stabilization and tax policy
6 committee aggregate amounts of each deduction taken pursuant
7 to this section, the number of taxpayers claiming each
8 deduction and any other information necessary to determine
9 that the deduction is performing the purposes for which it is
10 enacted.

11 F. The deductions provided in Subsection B of this
12 section shall be taken only by a taxpayer participating in
13 the New Mexico medicaid program whose gross receipts are no
14 less than ninety percent derived from the sale or rental of
15 prescribed durable medical equipment, prescribed medical
16 supplies, oxygen or oxygen services or infusion therapy
17 services, including the medications used in infusion therapy
18 services.

19 G. As used in this section:

20 (1) "durable medical equipment" means a
21 medical assistive device or other equipment that:

22 (a) can withstand repeated use;

23 (b) is primarily and customarily used
24 to serve a medical purpose and is not useful to an individual
25 in the absence of an illness, injury or other medical

1 necessity, including improved functioning of a body part;

2 (c) is appropriate for use at home
3 exclusively by the eligible recipient for whom the durable
4 medical equipment is prescribed; and

5 (d) is prescribed by a physician or
6 other person licensed by the state to prescribe durable
7 medical equipment;

8 (2) "infusion therapy services" means the
9 administration of prescribed medication through a needle or
10 catheter;

11 (3) "medical supplies" means items for a
12 course of medical treatment, including nutritional products,
13 that are:

14 (a) necessary for an ongoing course of
15 medical treatment;

16 (b) disposable and cannot be reused;
17 and

18 (c) prescribed by a physician or other
19 person licensed by the state to prescribe medical supplies;

20 (4) "prescribe" means to authorize the use
21 of an item or substance for a course of medical treatment;
22 and

23 (5) "prescription drugs" means insulin and
24 substances that are:

25 (a) dispensed by or under the

1 supervision of a licensed pharmacist or by a physician or
2 other person authorized under state law to do so;

3 (b) prescribed for a specified person
4 by a person authorized under state law to prescribe the
5 substance; and

6 (c) subject to the restrictions on sale
7 contained in Subparagraph 1 of Subsection (b) of 21 USCA
8 353."

9 SECTION 2. DELAYED REPEAL.--Section 7-9-73.2 NMSA 1978
10 (being Laws 1998, Chapter 95, Section 2 and Laws 1998,
11 Chapter 99, Section 4, as amended) is repealed effective
12 January 1, 2017.

13 SECTION 3. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is January 1, 2014. _____